



MOU NO. 0025
Aquatic Weed Control Grant for 2024

MEMORANDUM OF UNDERSTANDING
between the
North Carolina Department of Environmental Quality
and the
Town of Southern Shores

This Memorandum of Understanding (MOU) is hereby made and entered into by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY** ("NCDEQ") and the **TOWN OF SOUTHERN SHORES**, (referred to as the "COOPERATOR"). "NCDEQ" and the "COOPERATOR" together are referred to as the "PARTIES".

1.0 MOU Background.

- 1.1 The North Carolina Aquatic Weed Control Program ("Program") is housed within the NCDEQ. The Program provides grant funds to units of local, state, and federal governments, academic institutions, and public utilities for the purpose of aquatic weed management and/or research (per Aquatic Weed Control Act of 1991, NC General Statutes, Article 15 of Chapter 113).
- 1.2 The COOPERATOR has requested assistance from the Program and/or applied for an Aquatic Weed Control grant.
- 1.3 The North Carolina Aquatic Weed Council has adopted a work plan for the 2024 weed season and the work plan includes one or more projects associated with the COOPERATOR.
- 1.4 This MOU establishes a cost-share arrangement for the purpose of pursuing one or more aquatic weed control projects.

2.0 MOU Period. This MOU shall be effective from the date upon which all PARTIES have signed to **December 31, 2024**, inclusive of those dates.

3.0 Performance Obligations and Duties. The PARTIES agree that the NCDEQ shall perform the services required herein set forth; provided that the NCDEQ is not and will not by virtue of this MOU acquire the status of an employee of the COOPERATOR:

- 3.1 **Herbicide Applications:** Program staff will conduct herbicide applications, except that a 3rd party vendor(s) may be contracted to assist with herbicide applications. All personnel, equipment, and materials will be provided by NCDEQ and/or 3rd party vendor(s).
- 3.2 **Herbicide efficacy:** The NCDEQ will conduct post-application site visit(s) and determine efficacy of herbicide treatments. The NCDEQ may collect water samples from treatment areas and send them to an analytical lab to determine herbicide concentrations.
- 3.3 **Contract oversight:** In the case that a 3rd party vendor is retained, Program staff will be responsible for contract oversight to ensure that services provided by 3rd party vendor(s) meet contract specifications.
- 3.4 **Aquatic Vegetation Survey:** The NCDEQ will conduct an aquatic vegetation survey in Jean Guite Creek and the Town of Southern Shores canals. The survey will be conducted at the end of the 2024 weed season. The survey will identify what species of aquatic plants are present and approximate the number of acres occupied by each species. A final report will be provided to the COOPERATOR.

4.0 Time of Essence. Time is of the essence in performing all activities regarding this MOU.



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5.0 Compensation. Per G.S. 143-215.73F (c) (3) “The cost-share for an aquatic weed control project shall be at least one non-State dollar for every dollar from the fund”. To meet the cost-share requirement the COOPERATOR agrees to reimburse NCDEQ by paying the amount on invoices net thirty (30) days. The table below itemizes the project(s) and estimated cost(s):

Item	Cost	NCDEQ Share	COOPERATOR Share
Herbicide Applications	\$39,000	\$19,500	\$19,500
Aquatic Vegetation Survey	\$1,000	\$500	\$500
Total	\$40,000	\$20,000	\$20,000

All costs incurred by providing these services require a 1:1 non-state dollar match. To meet the cost-share requirement the Division of Water Resources will invoice for 50% of the actual costs incurred. Invoicing will occur at the end of the weed season, except by special request.

COOPERATOR agrees to a 50/50 cost-share arrangement with the State of North Carolina. COOPERATOR will be invoiced by the Division of Water Resources for 50% of incurred costs, not to exceed \$20,000.00.

6.0 Payment Provisions. Payment under this MOU will be made upon receipt of an invoice with supporting documentation from the NCDEQ setting forth the amount due and payable pursuant to Section 5.0 Compensation. All services must be performed to the satisfaction of COOPERATOR prior to any payment being made. Payment terms are not later than thirty (30) calendar days after receipt of a correct invoice(s). Invoices shall be submitted to:

6.1 Town of Southern Shores
Attn: Cliff Ogburn
5375 N. Virginia Dare Trail
Southern Shores, NC 27949

7.0 Availability of Funds. The PARTIES understand and agree that payment of the sums specified herein shall be subject to, and contingent upon, the allocation and appropriation of funds to NCDEQ for the purposes described in this MOU.

8.0 Contract Administrator. Rob Emens, Aquatic Weed Program Manager is hereby designated as the contract administrator for the Department under this Agreement. The contract administrator is responsible for monitoring the Vendor's performance, approving payment to the Vendor, and for providing evaluation of the Vendor.

Rob Emens Aquatic Weed Program Manager	919-707-9012	rob.emens@deq.nc.gov
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9.0 Point of Contact. All matters regarding this MOU and all official and binding communications shall be with the designated Point of Contact who is an authorized agent of their respective organization.

Cooperator	Point of contact	Phone number	Email address
Town of Southern Shores	Cliff Ogburn	252-216-8146	cogburn@southernshores-nc.gov

10.0 Amendments. This MOU shall not be amended orally, or by performance, but only by written amendments duly executed by all PARTIES.

11.0 Order of Precedence. In cases of conflict between specific provisions in this MOU or Amendments that may come to pass, the order of precedence shall be (high to low) (1) Amendments; (2) MOU.

12.0 Compliance with Laws. All PARTIES shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements applicable to its performance hereunder and/or the conduct of its business generally, including those of Federal, State, and local agencies having jurisdiction and/or authority.

13.0 Termination. This MOU may be terminated by the COOPERATOR at any time with thirty (30) days' notice in writing and duly executed by an authorized representative of the COOPERATOR to NCDEQ. In that event, NCDEQ shall pay for services satisfactorily completed by third party vendor(s), and the COOPERATOR will be invoiced their cost-share through the effective termination.

14.0 Acts and Omissions. Neither party shall be responsible for, or bear any liability associated with, the acts or omissions of the other party. Rather, each party shall be responsible for, and bear the liability associated with, its own acts and omissions. Moreover, nothing in this MOU is intended or shall be construed as a waiver by the parties of any claims or defenses in any legal action, or of any other rights or remedies available under applicable law. In particular, nothing herein is intended or shall be construed as waiving any claim or defense based on the principle of sovereign immunity if such claim or defense would otherwise be available under applicable law.

15.0 Force Majeure. Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as the result of events or circumstances beyond its reasonable control. Such events or circumstances include, without limitation, war, hostile foreign action, acts of terrorism, blockades, embargoes, trade restrictions, riots, civil insurrection, power failures, nuclear explosions, floods, fires, earthquakes, hurricanes, tornados, and any other event or circumstance beyond the reasonable control of such party.

16.0 Choice of Law. This MOU is governed by the laws of North Carolina and the Parties agree that the courts of North Carolina have exclusive jurisdiction and that Wake County is the exclusive venue for any legal dispute or proceedings relating to this MOU.

17.0 Signature Warranty. The undersigned represent and warrant that they are authorized to bind their respective entities to the terms of this MOU and/or applicable law.



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IN WITNESS WHEREOF the PARTIES execute this MOU by their duly authorized representatives on the day and year below.

NC DEPARTMENT OF ENVIRONMENTAL QUALITY

Signature

Printed Name and Title

Date

TOWN OF SOUTHERN SHORES

Signature

Printed Name and Title

Date